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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-1681-CWP-2024,
CM-1682-CWP-2024
IN/AND CWP-10012-2010 (O&M)
Date of decision: 05.02.2024

HANS RAJ (DECEASED) THROUGH LRs AND ANOTHER

...Petitioners

Versus

DIRECTOR LAND RECORDS AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. R.K. Chauhan, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab

Mr. M.L. Saini, Advocate
for respondents No.4 to 6.

Ms. Pratibha Yadav, Advocate
for respondent No.10.

SURESHWAR THAKUR, J. (ORAL)

CM-1681-CWP-2024

1. The instant application has been filed for seeking preponement of the main case from 27.02.2024.
2. For good, and, valid reasons recorded in the application, the same is allowed. Main case is taken up on Board today.

CM-1682-CWP-2024

The instant application seeking withdrawal of the writ petition as not pressed, at this stage, is not allowed, as the learned counsels

appearing for the contesting litigants consensually submit before this Court, that this Court may proceed to decide the main writ petition on its own merits.

CWP-10012-2010

1. One Harbans Lal instituted Missal No.R-131/92 before the learned Additional Director Consolidation, Punjab at Mohali, whereby he claimed, that the Consolidation Officer concerned, in his drawing the consolidation scheme rather has not provided any access to his fields. Therefore, he contended, that the Consolidation Officer concerned, derogated from the statutory duty, as became encumbered, upon him to, thus in the consolidation scheme, assign a consolidation *rasta* to the present petitioners as well as to the other estate holders, for thereby all the estate holders making accesses to their respective estates.

2. In the said petition became impleaded one Daulat Ram, and, other estate holders as respondents. However, the Gram Panchayat concerned, became not impleaded in the array of respondents in the lis (supra). The learned Additional Director concerned, in the operative part of the impugned annexure P-7, proceeded to make remand of the lis, to the Consolidation Officer concerned, with a direction to him, that a *rasta* be provided, from the estate of Killa No.100//33, 24/1, 25/1 and 25/2 and 25/1 west, 5/2 west, east south in the presence of the parties. However, he further directed, that in view of the said assignment of a *rasta* on the above said khasra numbers, which *prima facie* appears therein to become carved over khasra numbers (supra), which become allotted to the Gram Panchayat concerned, that some other land in lieu of the said khasra numbers, be

3. Primarily for evident non-impleadment of the Gram Panchayat concerned, in the relevant lis, the said Gram Panchayat concerned, naturally became affected by the above made directions, inasmuch as, the lands borne on khasra numbers (supra), whereons directions were made to the Consolidation Officer concerned, thus to create a rasta, rather are evidently owned by the Gram Panchayat concerned.

4. Though, in the impugned order (Annexure P-7) a further direction was made that in lieu of the said land belonging to the Gram Panchayat concerned, the latter would be assigned some other land. Nonetheless, In the absence of Gram Panchayat concerned, becoming impleaded in the relevant lis, thereby the said direction was but *ex facie* detrimental and *prejudicial* to its interest, thereby naturally making the said direction to be violative of the principles of natural justice.

5. Even otherwise, even in the face of the impleadment of the Gram Panchayat concerned, in the relevant lis, yet unless, in a panchyaat resolution as became passed by the Gram Panchayat concerned, speakings occurred, to the effect that the assignment of easementary rights on khasra numbers (supra), to the estate holders concerned, rather is an imperative necessity, besides only, upon, an approval thereto becoming accorded by the Approving Authority, thereupon alone the rights, title and interest over the khasra numbers (supra), thus were validly alienable or could be alienated. However, non such panchayat resolution exists on record nor any approval thereto exists on record, thereby directions (supra), were unamenable to be passed nor were amenable to be complied with, at the instance of the Gram Panchayat concerned.

6. At the fag end, the learned counsels appearing for the contesting litigants fairly submits, before this Court, that in the larger interest of justice after quashing the impugned orders, the lis be remanded to the learned Additional Director concerned, to after his receiving an application from the Gram Panchayat concerned, for therebys its becoming impleaded in the array of respondents, to pass thereon such orders, as deemed fit in accordance with law. Furthermore, they also jointly submit before this Court, that subsequently the learned Additional Director concerned, may proceed to pass such orders, as deemed fit, on the merits of the relevant remanded lis.

7. Therefore, given the above *ad idem* statement made at the bar, by the contesting litigants, this Court allows the instant writ petition, and, quashes the impugned orders, but with an order of remand to the learned Additional Director concerned, to after his restoring the lis to its original number, to thus proceed to, on the relevant application preferred before him, by the Gram Panchayat concerned, thus seeking its impleadment in the application, to make just and sound order thereons. After allowing the said application, the learned Additional Director concerned, shall proceed to make a fresh decision in accordance with law on the merits of the remanded lis.

8. In case, ultimately the contesting litigants are agreeable to the above khasra numbers being the most suitable khasra numbers (*supra*), for a rasta being carved for the relevant purpose, thereupon since as stated (*supra*), the said khasra numbers are owned by Gram Panchayat concerned, thereupon the Sarpanch of the Gram Panchayat concerned, may, if deemed

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subsequent to the passing of the panchayat resolution, the same be forwarded to the competent approving authority, for ensuring that the latter in accordance with law makes an approval thereto. Furthermore, it is also clarified that if from the revenue records, it is discerned that thus for all the relevant purposes, and, for the benefit of the estate holders concerned, rather a consolidation rasta does exist, thereupon in the face of the above revelation becoming unfolded in the consolidation scheme, thereupon it is permissible for the learned Additional Director concerned, to proceed to decline the relief in the said remanded lis, rather it is permissible for him to proceed to relegate the litigants concerned, to access the Civil Court of competent jurisdiction, for constituting therebefore a suit for declaration, qua assignment of easementary rights, over a rasta other than the consolidation rasta but, on the basis of prescription and necessity.

9. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

05.02.2024
Ithlesh

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No